

**PLANNING AND ZONING COMMISSION  
MINUTES  
SPECIAL MEETING / PUBLIC HEARING  
JULY 15, 2014**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Cameron, Cunningham, DiDonna, Sini, Jr., Voigt

STAFF ATTENDING: Ginsberg, Keating (arrived at 9:45 p.m.)

RECORDER: Syat  
Channel 79

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Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Proposed Amendment to Darien Zoning Regulations put forth by Penelope Glassmeyer.** Proposing to amend the Darien Zoning Regulations by establishing an overlay zone that would apply to larger sites in the R-1 Residence Zone served by public water supply and sanitary sewer. It would allow multi-family age-restricted developments by Special Permit in the R-1 Zone, if the overlay zone is placed upon a property.

Attorney Robert Maslan was present on behalf of Mrs. Glassmeyer. He said that he had sent a July 10, 2014, four-page letter as well as a follow up July 14, 2014 letter. He then mentioned that he has submitted, for the record, a definition from the Town of Westport's Zoning Regulations of the word "Senior". Mr. Maslan confirmed that if the Planning & Zoning Commission wishes to expand this premise to other zoning districts it would need to have a new public hearing which would allow it to expand beyond the R-1 Zone. He then continued to review his July 10, 2014 letter. Mr. Maslan claimed that one option for the Commission would be to see how this proposal functions in the R-1 Zone before expanding to other parts of Town or other zoning districts. Mr. Maslan said that he has included a 60% maximum Developed Site Area to the Area and Bulk requirements table. He also included a maximum size building provision. This unusual proposal allows for the finishing of basements but not attics. He mentioned that a Floor Area Ratio (FAR) might be too complex for this zone and a more simple maximum size of building might be an appropriate solution to limiting the size of buildings. A 3,000 square foot finished floor area would address the issue of house size. He recommended limiting houses in this zone to two stories and he would leave it for the Planning & Zoning Commission on whether to allow finished space in the basement. The 3,000 square foot maximum would include any finished space in the basement. He has allowed for a maximum of two dwelling units per building.

Ms. Cameron asked about the two units per acre limit proposed. Mr. Maslan said with the inclusionary incentive that could trigger extra on-site units, that is how Mrs. Glassmeyer came up with six on-site units. Mr. Maslan then continued to review his proposed regulations and ask why the Commission would want to make this like Section 420, the Municipal Use Zone. Mr. Sini responded that that would give it more Town-wide applicability. Mr. Maslan reiterated that that comes to the same issue on whether the Commission wishes to make this proposal more wide

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ranging, in which case a new public hearing might need to be held. Mr. Maslan then referred to Article 32-15a in the Town of Westport's Zoning Regulations.

Mr. Maslan then reviewed his July 14, 2014 letter. He confirmed that the Inclusionary Regulations in Section 580 of the Darien Zoning Regulations only applies to density. This zone has its own special controls. The revisions to the Regulations discussed tonight are responsive and not a new proposal. He did find other parcels that this proposal could apply to within the R-1 Zone and he outlined them for the Commission. He also attached to his July 14 letter two court cases and the Connecticut Statutes so the Commission could understand when reviewing this proposal.

Ms. Cameron asked if any members of the public were present to discuss this matter. Nobody from the public came forward. Ms. Cameron thanked Mr. Maslan for his presentation and said that she wanted one additional week to review the information presented and suggested that the public hearing be continued to Tuesday, July 22 at 8 P.M. in Room 206 of Town Hall. Other Commission members concurred, thus the public hearing was continued to that date and time.

At 8:27 P.M., Chairman Cameron then read the next agenda item:

**Continuation of Public Hearing regarding Business Site Plan #218-A/Special Permit, Papa Joe's Restaurant, 1973 Boston Post Road.** Proposing to expand the existing restaurant into approximately 1,275 square feet of first floor space, establish a bar within a portion of the space, and to perform related site activities. The subject property is located on the northeast corner formed by the intersection of Noroton Avenue and Boston Post Road, and is shown on Assessor's Map #42 as Lot #1 in the NB and R-1/3 Zones.

Attorney Wilder Gleason was present on behalf of the applicant. He noted that he has recently received a Zoning Board of Appeals (ZBA) variance, Calendar Number 24-2014. Mr. Gleason then reviewed his June 26, 2014 letter. He noted that the Corrente site at 1958 Boston Post Road, which is the Salon Elegance Hair Salon across the Boston Post Road, has 10 parking spaces which will be used Friday and Saturday night for employees of Papa Joe's. Mr. Gleason then summarized the proposed stipulations and conditions which they would be willing to adhere to which include: all Papa Joe's employees shall park off-site Friday and Saturday night; the restaurant may only be open from 11:30 A.M. to 2:30 P.M. for lunch and 5 P.M. to 11 P.M. for dinner; the bar shall be closed when the restaurant is closed; and no food shall be served before 11:30 A.M. or after 10:30 P.M.

Mr. DiDonna noted the presence of "informal" parking spaces on the subject property. Mr. Gleason confirmed that the Allstate Insurance claims office on the same property does have some striping which is a little different but it does provide some parking spaces over and above the marked parking spaces which are now on site. The Allstate spaces are unoccupied at night as that business is closed. Mr. Gleason agreed that three or four vehicles could park there off hours in the evening. Mr. DiDonna also referenced the informality of parking agreements proposed. Mr. Gleason agreed, and said that although Papa Joe's has not received a formal letter from Saint John's Church across the street on Boston Post Road, they are informally allowing parking on their lot. Mr. DiDonna then asked what if Mr. Corrente sells his property, how would that affect his overflow parking which is being provided to Papa Joe's at off hours. Mr. Gleason responded that if that parking across the street is not available, then in his opinion the applicant will need to return to the Planning & Zoning Commission and notify them of such, and possibly make other arrangements for off-site

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parking for employees. Mr. DiDonna asked whether new off-site parking is even possible. Mr. Gleason noted that the applicant would need to return to the Commission and discuss what might be possible.

Mr. Joe Revecchio, the proprietor of Papa Joe's, said that Sunday is not a big night for his restaurant. He said that this restaurant has been in business for 40 years and expanded to take-out business to 10 years ago, which now has a separate space adjacent to the restaurant. Mr. DiDonna mentioned that as part of this proposal, they are adding 152% more seats than now. Mr. Revecchio said that if the parking lot is full, customers will look off-site on nearby streets. Mr. Ginsberg confirmed that there is some on-street parking available on Noroton Avenue, Garden City Road and Boston Post Road nearby. Mr. Gleason said that valet parking could be implemented as needed. Ms. Cameron believed that Mr. Revecchio's track record on the subject property has shown that he is responsible. Mr. Revecchio said that although the restaurant may have 100 seats, at any one time only 70-75 are used. Mr. Cunningham then asked how many seats there were in the bar. Mr. Revecchio said there are 9 seats proposed in the bar area.

Ms. Cameron then asked if any members of the public wished to speak on the application. There were none. There being no further questions or comments from the Planning & Zoning Commission members, Mr. Sini made a motion to close the public hearing. That motion was seconded by Mr. Voigt and unanimously approved.

At about 8:40 p.m., Chairman Cameron then read the next agenda item:

**Coastal Site Plan Review #184-A, Flood Damage Prevention Application #195-A, Land Filling & Regrading Application #102-A, Town of Darien, 36 and 30 Goodwives River Road, and 11 Queens Lane.** Proposing to repair the Upper Pond dam; construct a fish ladder; remove approximately 9,000 cubic yards of sediment; restore aquatic and shoreline habitats of the Upper Pond; and perform related activities within regulated areas. The subject properties are located on the Goodwives River and: at 36 Goodwives River Road (Map #63, Lot #105); 30 Goodwives River Road (Map #63, Lot #104); and 11 Queens Lane (Map #63 Lot #99), approximately 800 feet south of its intersection with Old King's Highway South, in the R-1 Zone.

Mr. Ginsberg clarified that the Town of Darien is actually the applicant. He noted that a prior similar permit was issued by the Planning & Zoning Commission over 10 years ago for the Friends of Goodwives River, and that approval has expired. The Darien Environmental Protection Commission (EPC) has approved this application (EPC-6-2014) on May 7, 2014.

Ms. Kristin Connell of Fuss & O'Neill said that this application involves the dredging of Upper Pond. The dam is now in poor condition and a fishway will be installed. Ms. Connell noted that a sediment forebay will be installed and an existing right of way and easement from Queens Lane will be used. This will provide for access both in the short term and the long term. Ms. Cameron then asked how this sediment would be disposed. Ms. Connell replied that sediment will need to be tested. The reason for that is that it includes roadway runoff. Ms. Cameron asked where the de-watering will occur. Ms. Connell responded that the "Total Clean System" would be used and would be staged on Queens Lane. The de-watering may occur on the sediment island which is now in the middle of the river. That would be done on the sediment island prior to the sediment island removal. Mr. Voigt then asked what the 9,000 cubic yards would de-water down to. Mr. DiDonna

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noted that the EPC relied on the State of Connecticut Department of Energy & Environmental Protection (CT DEEP). Ms. Connell said that they have met with the DEEP and the area in question is tidal. Mr. Voigt then asked about the volume of sediment being transported off site. Ms. Connell responded that a dump truck would be used and that trucking aspect would take three to four weeks.

Mr. Matt Carrara of 12 Queens Lane said that he is not pleased with the proposed dirt and traffic that would result from this project. He asked if Queens Lane would be repaired if damaged. He noted that as part of the construction of the new house at 11 Queens Lane a few years ago, a sinkhole was caused in the area. He mentioned that he is against using Queens Lane for access, as Goodwives River Road could also be used. He acknowledged that Queens Lane is the easiest path but maybe not the best path. Ms. Cameron then asked whether any dump truck containers would have tops on them. Mr. Carrara asked whether the truck would dump dirt on to the road. He then asked for a more exact timeframe and asked again possible needed repairs of the street. He confirmed that any dump truck leaving the site must be covered and not overfilled. Ms. Connell responded that they hope to dredge between July and October, which is the dry season. The entire project should take two months, including restoration. They expect to have an anti-tracking pad right before entering and exiting Queens Lane. A covered load might require a water truck if there is a lot of dust on site. Mr. Sini noted the importance of testing of the sediment prior to disposal. Ms. Connell agreed, and said that they will have to follow the State of Connecticut Remediation Standards for what is found at the site. Mr. Carrara asked if Queens Lane is a Town road. Ms. Cameron responded that the Town would be responsible for maintaining of Town roads, such as Queens Lane. He then asked about the risk of sink holes. Ms. Cameron responded the Town would be able to remediate any sink holes created. Mr. Carrara asked if they are removing rock or sand and dirt only.

Mr. John Lundeen, the President of the Friends of Gorham's Pond, said that that private group has put private dollars into this project. Sediment tests were done four years ago and they showed some contamination but not to a great extent. Mr. Lundeen mentioned that the State of Connecticut said that before Gorham's Pond is done, the Upper Pond must be done so that they work downhill towards Long Island Sound. Mr. Lundeen expects to hope to use the "Total Clean System". They can stage more from the downstream end. The Town wishes to minimize impact to this process. Mr. Lundeen said that the dam has been here for at least 100 years and he also said this is a sustainable improvement. Much of what they found on site is highway erosion. Ms. Cameron mentioned that the Planning & Zoning Commission could put into any possible resolution the need to test the material and dispose of it properly. In response to a question, Mr. Lundeen noted that the funding for this project is coming from two State grants totalling \$550,000; one Town grant of \$40,000; and \$30,000 from the Friends of Gorham's Pond. Mr. Sini then asked about the benefits of the project. Mr. Lundeen noted that the benefits are many. He said that the dredged pond will restore flow; create a fish habitat; create some flood control; eliminate sediment from flowing downstream; create a sediment forebay; and create a fish ladder. Mr. DiDonna mentioned that sedimentation will continue as before, once the dredging is done. Mr. Lundeen agreed and noted that there are two types of sediment; organic sediment and sand. He mentioned that sand is no longer being put on State highways so there will certainly be less than there used to be.

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Ms. Lucia Zachowski, who is the Vice President of Friends of Gorham's Pond, said that testing was done on the sediment. It was found that 82% +/- was pure sand. She noted that the Town might even be able to use this sand at the beach if the "Total Clean System" works.

Mr. Brian Daly of 16 Queens Lane asked about the location of the gabion weir. Ms. Connell pointed out the gabion weir on the submitted plans. Ms. Cameron then asked about the access way. Ms. Connell said that they might be able to restore it to lawn and some trees may need to be removed within the access way to get trucks down to the water. Ms. Cameron noted the presence of a utility pole in this area and one unhealthy tree. Mr. Ginsberg said that Sheet CS101 of the plan shows the trees to be removed. Ms. Connell said they are trying to avoid trees. Ms. Cameron said that the remaining issues appear to be the access question, the utility pole location, and considering whether to leave the easement area gravel rather than lawn but not creating an eye sore at the same time. Mr. Voigt asked when they would get possible word back from the CT DEEP. Commission members agreed that in light of these outstanding questions and issues, it would be appropriate to continue the public hearing on this matter. While Ms. Connell was not positive that she could have all the issues resolved by next week, she agreed that that might be worthwhile to continue the hearing to that time. Thus, the Commission unanimously agreed to continue the public hearing on this matter to Tuesday, July 22 at 8 P.M. in Room 206 of Town Hall.

At about 9:30 P.M., Chairman Cameron then read the next agenda item:

**Coastal Site Plan Review #84-E, Flood Damage Prevention Application #74-E, Land Filling & Regrading Application #301-A, Hokin, 25 Shipway Road and Love, 17 Shipway Road.** Proposing to jointly grade the two properties and to perform related site development activities within regulated areas. The subject properties are located on the south side of Shipway Road approximately 300 feet east of its intersection with Plymouth Road, and are shown on Assessor's Map #55 as Lots #125 (Love) & #126 (Hokin) in the R-1 Zone.

Mr. DiDonna recused himself from this matter and left the room in order to avoid any perception of a conflict of interest.

Professional Engineer Doug DiVesta of DiVesta Civil Engineering Associates was present on behalf of the applicants, the Loves and the Hokins. He explained that Mr. Hokin received approval for a new house at a higher elevation on May 7, 2013, and that work is now underway. The subject application is a joint regrading application between the Loves and the Hokins, who both live on Shipway Road. He said that the proposed grading will coordinate and blend the properties. He explained that ponding now occurs on the property and this would be corrected. The proposed application will result in a gentle swale flowing towards Long Island Sound.

In response to a question, Mr. DiVesta noted that the existing Hokin house will be removed in October. He reminded Commission members that the Zoning Board of Appeals specifically allowed two houses to be temporarily present on the Hokin property during construction.

Ms. Cameron then asked if there were any members of the public who had any comments or questions about the subject application. There were none. There being no further questions or comments from Commission members, Mr. Voigt made a motion to close the public hearing on this

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matter. That motion was seconded by Mr. Sini and unanimously approved. The public hearing was closed.

At 9:38 P.M., Chairman Cameron then read the next agenda item:

**Coastal Site Plan Review #200-A, Flood Damage Prevention Application #217-A, Dmitry Melnick, 2572 Boston Post Road.** Proposing to construct a fixed pier with access stairs, and perform related site development activities within regulated areas. The subject property is located on the south side of Boston Post Road approximately 175 feet east of its intersection with Catalpa Terrace, and is shown on Assessor's Map #54 as Lot #4 in the R-1/3 Zone.

Mr. DiDonna returned to the meeting.

Mr. Jeff Westermeyer of Coastline Consulting was present to discuss the application. He explained that the application is for a pier with steps. Mr. Westermeyer explained that the application has been approved by the CT DEEP, the Army Corps of Engineers, and the Town of Darien EPC. In response to a question, Mr. Westermeyer said that most of the work proposed will be done by hand. He confirmed that some weeds and grasses between the edge of lawn on the property and the water of Holly Pond will need to be removed. There will be no filling or excavation as part of this application and no trees will be removed.

Ms. Cameron asked if there were any members of the public present to speak regarding this application. There were none. Mr. Sini then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Voigt and unanimously approved. The public hearing was then closed.

At 9:45 P.M., Chairman Cameron then read the next agenda item:

**Coastal Site Plan Review #205-A, Flood Damage Prevention Application #219-A, Land Filling & Regrading Application #331, Mark Filanowski, 71 Arrowhead Way.** Proposing to reposition the driveway; reposition the front walkway and steps; extend the existing front portico; and to perform related site development activities within regulated areas. The subject property is located on the east side of Arrowhead Way approximately 50 feet north of its intersection with Tokeneke Trail, and is shown on Assessor's Map #69 as Lot #20 in the R-1 Zone.

Mr. Chris Elkow explained that the proposal is to move the existing driveway and construct a new driveway and entrance. Some regrading is needed. He said that the existing and proposed driveways are gravel. Mr. Ginsberg said that there is a total of 230+/- square feet of change in impervious surface.

Mr. Keating then arrived at the meeting.

Mr. DiDonna mentioned that the Tokeneke Association had an issue with the driveway a few years ago. Mr. Elkow responded that they will not be touching the roadway as part of this application. Ms. Cameron asked if any members of the general public wished to speak regarding the subject application. There were none. Since there were no further questions or comments from

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Commission members, Mr. DiDonna made a motion to close the public hearing on this matter. That motion was seconded by Mr. Voigt and was unanimously approved.

At about 9:50 p.m., Chairman Cameron read the following agenda item:

**Flood Damage Prevention Application #303-A, Patrick & Lauren Palomo, 104 Rose Lane.**

Proposing to construct an addition to the existing residence and perform related site development activities within a regulated area. The property is situated on the south side of Rose Lane approximately 100 feet east of its intersection with Denhurst Place and is shown on Assessor's Map #25 as Lot #14, located in an R-1/5 (residential) Zone.

Attorney Amy Zabetakis was present on behalf of the property owners. She explained that the house was originally constructed in 1928 at elevation 38.1. The flood regulations were implemented in Darien long thereafter, and the house is within the flood zone. The Darien Zoning Board of Appeals granted a variance on June 25, 2014 (Calednar 27-2014). This variance allows the house addition to be at elevation 38.1, rather than at elevation 40, as required by the Flood regulations. There was also a 2011 addition on the other side of the house, which was approved at that time, with approval from the Darien EPC. A stormwater management system was designed and implemented for that addition. This proposal includes 500 square feet of new building coverage. Ms. Zabetakis then submitted a letter from a professional engineer dated July 11, 2014 regarding flood vents. She also submitted a letter from professional engineer Seymour dated July 14, 2014.

Mr. Ginsberg then read aloud the comments received from SWRPA. Ms. Cameron asked if any members of the general public wished to speak regarding the subject application. There were none. Since there were no further questions or comments from Commission members, Mr. DiDonna made a motion to close the public hearing on this matter. That motion was seconded by Mr. Voigt and was unanimously approved.

Chairman Cameron read the following agenda item:

**Land Filling & Regrading Application #330, Edward and Colleen Lyons, 17 Salt Box Lane.**

Proposal to fill and regrade in association with the construction of a stone masonry ramp within fifteen feet of the southwest property line; and perform related site development activities. The subject property is located on the west side of Salt Box Lane approximately 190 feet south of its intersection with Salt Box Lane East, and is shown on Assessor's Map #45 as Lot #11 in the R-1/3 Zone.

Ms. Beth Harrington-Howes was present on behalf of the Lyons. She explained that the proposed addition has been approved and is now under construction. The proposal is for a handicapped-accessible ramp alongside the garage. It will be four feet wide. A little filling and regrading will be needed. Stormwater will continue to flow towards the road.

Ms. Cameron asked if any members of the general public wished to speak regarding the subject application. There were none. Since there were no further questions or comments from Commission members, Mr. DiDonna made a motion to close the public hearing on this matter. That motion was seconded by Mr. Voigt and was unanimously approved.

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There was no other business to consider. The following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini, and unanimously approved. The meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director

*07.15.2014min*